

## **REMARKS**

### **Status of the Claims**

Claims 1-23 are pending, with claims 4-11 having previously been withdrawn from consideration due to restriction requirement.

Claims 1-3 and 12-23 are rejected.

Claims 1, 3 and 20 have been amended.

Claim 24 has been added.

No new matter has been added.

### **Claim Objections**

Claim 3 is objected to for being listed twice. Claim 3 has been amended to delete the duplicate listing.

### **Rejections under U.S.C. §102(b) and §102(e)**

The Examiner rejected claims 1-3 and 12-23 under 35 U.S.C. §102(b) as being anticipated by McNamara (U.S. Patent No. 5,400,768).

Independent claim 1 has been amended to recite the limitation “the outer wall further having a continuous circumference forming an enclosed cylindrical section from the window to the proximal end.” This limitation describes structure of the claimed invention in which a continuous, enclosed passageway extends from the proximate end to which the housing is attached to the window of the access device. This allows introduction of insufflation gases during use of the device. See Published App., ¶¶ [0032], [0035] and Fig. 1. In contrast, McNamara discloses window 44 with a continuous slot (40 and 42) from the proximate to distal ends of the device. The design of McNamara cannot be used for introduction of insufflation gases because the continuous slot would leak the gases used to inflate the peritoneal cavity as disclosed in the present invention. Thus, amended claim 1 distinguishes over this reference.

Claim 20 has likewise been amended to provide that “the outer wall being continuous and uninterrupted from the proximate end to the window so as to form an enclosed passageway for insufflation gases.” Amended claim 20 distinguishes over McNamara for the same reasons as set forth above with respect to claim 1.

The Examiner rejected claims 3, 19, and 22 based on McNamara, stating that “a housing (60) is disposed at the proximal end of the access member and is capable of providing insufflation gases through the lumen of the access member.” *See* April 3, 2009 Office Action, at ¶ 7. Applicant amended claim 3 to clarify that the housing facilitates introduction of insufflation gases into the access member. Claims 19 and 22 already contained similar limitations. In McNamara, feature 60 is a “collar or stop member” that, among other things, provides a grip when manipulating the device. *See* McNamara, col. 6, lines 25-42. However, there is no mention in McNamara that collar or stop member 60 is capable of providing insufflation gases. Moreover, the McNamara device is unsuitable for introduction of insufflation gases because of the continuous slot (40, 42) that extends from one end to the other end of sleeve member 42. Since there is no disclosure of providing insufflation gases and the structure of McNamara is unsuitable for such use, claims 3, 19 and 22 are neither anticipated nor rendered obvious by McNamara.

The remaining claims depend from independent claims 1 and 20 and are patentable based on the distinctions set forth above.

Applicant has added new claim 24, which has a similar limitation describing the sealed bore from the window to the proximate end and adds the additional limitations that “a cannula housing configured to allow insufflation and desufflation of biologically non-reactive gases into the elongated access member; [and] the elongated access member being removably attachable to the cannula housing.” These additional limitations provide the mechanism for allowing the insufflation and desufflation gases to be introduced into the access device and provide additional distinctions over the McNamara reference.

**CONCLUSION**

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

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